

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 278 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

RAMILABEN WD/O MANGALGIRI PRABHATGIRI GOSWAMI

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

MR CL SONI for Petitioner

MR GIRISH D BHATT for Respondent No. 1

MR JD AJMERA ADDL STANDING COUNSEL for PF
Commissioner.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 11/03/98

ORAL JUDGEMENT

The petitioner, who is the widow of late Mangalgiri Prabhatgiri Goswami, has filed this petition against the action of the respondent Board of not finalising her family pension case on the ground that succeffsion certificate produced by the petitioner also includes the name of the mother of the deceased and,

therefore, asked the petitioner to produce a separate succession certificate in the name of the petitioner only. The respondents have also insisted that the petitioner should also obtain a certificate stating, inter alia, that the petitioner alone is entitled to get the benefits of family pension.

On behalf of the respondent-Board, an affidavit in reply has been filed justifying its action. Reading paragraph 29 of the Employees Family Pension Scheme, 1971 it becomes clear that family pension is payable to the widow or widower upto the date of death or remarriage whichever is earlier failing which to the eldest surviving minor son until he attains the age of 18 years and failing the above two provisos to the eldest surviving unmarried daughter until she attains the age of 21 years or marries whichever is earlier. It has been made clear that family pension shall not be paid to more than one person at a time. We are not concerned in this petition with the rest of the notes below paragraph 29. Reading the aforesaid provisions, it is clear that the first preference is required to be given to the widow who is entitled to receive the family pension. No provision is made of making payment of family pension to the mother. In view of these provisions, even if the succession certificate is in the name of the widow as well as the mother of the deceased husband of the widow, the petitioner being widow of the deceased, she is entitled to get the amount of family pension. Thus, the respondents are not justified in insisting for a separate succession certificate in the name of widow alone.

In the result, this petition is allowed. The impugned order at Annexures "A" and "B" are quashed and set aside. The respondents are directed to process the pension papers submitted by the petitioner claiming the amount of family pension forthwith and shall submit the same to respondent No.2-Provident Fund Commissioner. Respondent No.2-Provident Fund Commissioner is also directed to finalise the case of the petitioner as expeditiously as possible and in no case later than eight weeks from the date of the receipts of the papers from the first respondent. Rule is made absolute to the aforesaid extent with no order as to costs.

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